

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

-v.-

ADAM MATTESSICH,

Defendant.

18 Civ. 5884 (KPF)

**ORDER**

KATHERINE POLK FAILLA, District Judge:

The Court has just learned that, based on a new safety protocol, no one may unmask in the courtroom — even in the HEPA-filter-outfitted witness and attorney boxes — unless they have tested negative for COVID-19 using an approved molecular diagnostic test. (Antigen tests are not approved.) If a person will be removing his or her mask on successive days, the person may test on an every-other-day schedule; otherwise, the speaker must test negative on the day of his or her appearance. If a speaker has had a confirmed case of COVID-19 (verified by either a doctor's note or a viral test result) within the prior ninety days, he or she will be exempted from these testing requirements. Confirmation of negative test results (or of a prior case of COVID-19) must be provided to the Court through its staff.

**To be clear: This new policy will be in effect when the trial commences. It applies to all witnesses and counsel who intend to speak without a mask. Counsel should make adequate preparations to comply with the requirements before the jury arrives on the morning of**

**Wednesday, February 9, 2022. The Court will not delay the proceedings because of this new policy.**

The following is a list of the tests that are approved:

- PCR / RT-PCR / ddPCR / Rapid PCR (Polymerase Chain Reaction)
- NAA / NAAT (Nucleic Acid Amplification)
- AMP PRB (Amplified Probe) • LAMP (Loop-mediated Isothermal Amplification)
- Accepted molecular diagnostic test brands, including but not limited to:
  - Abbott ID NOW
  - Quidel Lyra PCR
  - Abbott Realtime PCR
  - Cobas Qualitative PCR
  - FTD PCR
  - Xpert Xpress
  - Simplexa Direct PCR
  - RUCDR Infinite Biologics
  - Lucira Health

The following are tests that are NOT approved:

- All tests that do not have FDA authorization or approval
- All Antigen (Ag) tests (including but not limited to Quidel Sophia, Abbott BinaxNOW Rapid Antigen Tests)
- All Antibody tests (such as IgG, IgA, IgM and Rapid Antibody Tests)
- All blood tests (such as fingerstick, venipuncture)
- All plasma tests
- All serum tests

If counsel have questions, or need assistance procuring an approved test or arranging for a location within the courthouse to perform a test, they should email [covid\\_response@nysd.uscourts.gov](mailto:covid_response@nysd.uscourts.gov). If needed, the Court has tests that can be made available to the parties free-of-charge and that can be taken one hour prior to the scheduled appearance time, provided that there is 24-hours' notice sent to the Covid Response email.

SO ORDERED.

Dated: February 7, 2022  
New York, New York

A handwritten signature in blue ink, reading "Katherine Polk Faila".

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KATHERINE POLK FAILLA  
United States District Judge